

**UNITED STATES DISTRICT COURT
DISTRICT OF NEVADA**

Marquese Pickett,

Case No.: 2:16-cv-02669-JAD-GWF

Plaintiff

V.

James G. Cox, et al.,

Order Granting Motion to Dismiss and Closing Case

Defendants

[ECF No. 17]

Pro se plaintiff and prisoner Marquese Pickett sues Nevada Department of Corrections

9 (NDOC) Director James G. Cox, former¹ NDOC Medical Director Bruce Bannister, and various
10 “Doe” employees for violating his Eighth Amendment rights with their deliberate indifference to
11 his medical needs in March of 2013 during his incarceration at the High Desert State Prison.²
12 Cox—the only served defendant—moves to dismiss this case because Pickett failed to file it
13 before the two-year statute of limitations ran, he failed to properly exhaust his grievances before
14 filing this case, Pickett cannot sue Cox under § 1983 because he does not allege that Cox
15 personally participated in the violation, and regardless, Cox enjoys qualified immunity from
16 Pickett’s claim.³

17 Pickett was granted an extension of the deadline to respond, but the extended deadline⁴
18 passed more than two weeks ago without any opposition.⁵ Local Rule LR 7-2(d) warns litigants
19 that “[t]he failure of an opposing party to file points and authorities in response to any motion,

¹ See ECF No. 21 at 2.

² ECF No. 2 (screening order); ECF No. 3 at 6 (complaint).

³ ECF No. 17.

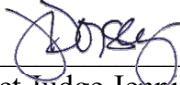
23||⁴ ECF No. 20.

⁵ ECF No. 22.

1 except a motion under Fed. R. Civ. P. 56 [motions for summary judgment] or a motion for
2 attorney's fees, constitutes a consent to the granting of the motion.”⁶ I apply Rule 7-2(d), deem
3 Pickett's failure to oppose this motion as his consent to granting it, and grant Cox's motion to
4 dismiss the claims against him with prejudice as untimely.

5 Accordingly, IT IS HEREBY ORDERED, ADJUDGED, AND DECREED that Cox's
6 Motion to Dismiss [17] is **GRANTED**, and all claims against defendant James G. Cox are
7 **DISMISSED with prejudice as untimely**. And because this delay in filing renders his claims
8 against all defendants time-barred, I direct the Clerk of Court to **DISMISS** this case in its
9 **entirety and CLOSE THIS CASE.**

10 Dated: July 18, 2018

11 
12 U.S. District Judge Jennifer A. Dorsey

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⁶ L.R. 7-2(d).